

**Department of State  
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Tennessee Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Fax: 615-741-5133  
Email: sos.information@state.tn.us

**For Department of State Use Only**

Sequence Number: 12-22-08

Rule ID(s): 3943

File Date: 12/30/2008

Effective Date: 03/15/2009

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205*

<b>Agency/Board/Commission:</b>	Tennessee Department of Human Services
<b>Division:</b>	Family Assistance
<b>Contact Person:</b>	Phyllis Simpson
<b>Address:</b>	Office of General Counsel Citizens Plaza Building, 10 <sup>th</sup> Floor 400 Deaderick Street Nashville, Tennessee
<b>Zip:</b>	37243-1403
<b>Phone:</b>	615-313-4731
<b>Email:</b>	phyllis.simpson@state.tn.us

**Revision Type (check all that apply):**

- ☒ Amendment  
☐ New  
☐ Repeal

**Rule(s) Revised** (ALL chapters and rules contained in filing must be listed here.)

Chapter Number	Chapter Title
1240-01-04	Financial Eligibility Requirements
Rule Number	Rule Title
1240-01-04-.05	Exempt Resources

Chapter 1240-01-04  
Financial Eligibility Requirements

Amendments

Rule 1240-01-04-.05 Exempt Resources, is amended by deleting Paragraphs (6) and (7) in their entirety, and by substituting instead the following, so that as amended Paragraphs (6) and (7) shall read as follows:

- (6) Burial Policies, Burial Agreements, and Burial Plots. These shall be considered exempt for resource purposes.
- (7) Pension Funds. The cash value of pension plans or funds shall be exempt. (Food Stamps Only): Excludes any funds in a plan, contract, or account described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Savings Plan as provided for in 5 U.S.C. 8439. Also the exclusion of any successor retirement accounts that are exempt from Federal taxes.

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 4-5-202; T.C.A. §§ 71-1-105 and 71-5-304; 7 U.S.C.A. § 2014(g); 7 C.F.R. §§ 273.9 and 273.10; and PL 110-246, Title IV § 4104(b), June 18, 2008.

Rule 1240-01-04-.05 Exempt Resources, is amended by adding a new Paragraph to be numbered (20), so that as amended new Paragraph (20) shall read as follows:

- (20) Educational Savings Accounts – Food Stamps
  - (a) Educational savings accounts under Section 529 of the Internal Revenue Code of 1986 qualified tuition programs, shall be exempt.
  - (b) Coverdell Education Savings Accounts (Section 530 of the Internal Revenue Code) shall be exempt.

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 4-5-202; T.C.A. §§ 71-1-105 and 71-5-304; 7 U.S.C.A. § 2014(g); 7 C.F.R. §§ 273.9 and 273.10; and PL 110-246, Title IV § 4104(c), June 18, 2008.

## **Regulatory Flexibility Addendum**

Pursuant to Public Chapter 464 of the 105<sup>th</sup> General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The United States Department of Agriculture establishes standards of eligibility for participation by households in the Food Stamp Program pursuant to 7 U.S.C. § 2014. For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules substantially codify existing federal law, such that, pursuant to Section 6 of the Regulatory Flexibility Act, the Regulatory Flexibility Act's provisions do not apply to these rules. In addition, these rulemaking hearing rules do not appear to affect small businesses as defined in the Act because these rules are related to the determination of eligibility and provision of benefits to individuals and households who file an application for them. These rules do not regulate or attempt to regulate businesses.